IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1282/2005

VIRENDRA SINGH & ANR. Vs. STATE OF RAJASTHAN & ANR.

DATE: 22.02.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. R.S. Agarwal with
Mr. R.D.S. Naruka for the accused-petitioners.
Mr. S.N. Gupta, PP for the State.
Mr. G.P. Kaushik for the complainant-respondent.

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R E P O R T A B L E

The instant criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioners against the order dated 23.11.2005 passed by the Additional Sessions Judge, Kekri, District Ajmer in Sessions Case No. 34/2005, whereby charges have been framed against the accused-petitioners for the offence under Sections 307/34, 341/34, 323/34 and 325/34 IPC.

Learned counsel for the accused-petitioners submits that the injury sustained by injured Mangal Das is not grievous in nature and he referred the injury report also. As per the injury report of Mangal Das, after X-ray report is given that injury Nos. 1,2 and 3 are grievous in nature and injury No.4 is simple in nature. He further submits that looking to the nature of

the injuries, the same cannot be said to be fatal to life and are also not on the vital part of the body. Therefore, case under Section 307 IPC is not made out against the petitioners.

In support of his submissions, the learned counsel for the petitioners placed reliance on the judgment rendered by this Court in the case of **Birbal Ram S/o Bhura Ram & Anr. Vs. The State of Rajasthan, reported in 2005(1) Cr.L.R. (Raj.) 853,** wherein the allegation was that the accused-petitioner given 20-25 lathi blows to injured- injured suffered only three injuries on non-vital part of his body- injuries were on forearm and leg below knee- Held, order framing charges against petitioner for offence u/S. 307 IPC is set aside.

Learned counsel for the petitioners further placed reliance on the judgment rendered by this Court in the case of **Man Mohan & Ors. Vs. State of Rajasthan, reported in 2006(2) Cr.L.R. (Raj.) 1408,** wherein it is observed that according to the injury report of the complainant he has suffered only bruises on the forehead and there are no other injuries found on any other vital parts of the body- Death in ordinary course of nature is not possible from fracture of leg- Essential ingredients of Sec. 307 are missing- Held, order of framing charge

for the offence u/s. 307 is erroneous and set aside.

Per contra, learned counsel appearing for the complainant-respondent and learned Public Prosecutor for the State submit that at this stage appreciation of evidence cannot be made while exercising revisionary powers. In support of his submissions, the learned counsel for the complainant-respondent has placed reliance on the judgment rendered by this Court in the case of **Jagdish Prasad Sharma Vs. State, decided on 03.07.2006 and reported in 2006(4) WLC(Raj.) 450,** wherein this Court has observed that revision against order framing charge- Charge framed on perusal of material on record- Material sufficient- Trial Court not expected to consider evidence meticulously at such stage- Order of framing charge proper and no interference is required.

I have heard learned counsel for the accused-petitioners, learned Public Prosecutor for the State as well as learned counsel for the complainant-respondent and have also gone through the impugned order as also the judgments referred before me.

Ordinarily for framing charge under Section 307 IPC, injuries should be sufficient to cause death in the ordinary course of nature. The injuries received by Mangal Das were on right leg, left leg, upper arm and

upper forearm and as per the X-ray report, injuries Nos. 1 to 3 are opined as grievous in nature and it is also stated that it was intentional beating with lathi blows. In the case of **Man Mohan & Ors. Vs. State of Rajasthan (supra),** although the complainant has sustained fractures on both the legs, such injuries are not fatal to the complainant. The injuries caused on left leg, right leg, forearm are also not considered as vital part of the body.

Having considered the ratio decided by this Court and upon careful perusal of the injury report as well as the judgments referred by the respective parties, I deem it proper to remand the matter back to the Additional Sessions Judge, Kekri for fresh adjudication after giving due consideration to the judgments referred and the nature of the injuries and then pass fresh order.

With the aforesaid observations, the case is remanded back to the Additional Sessions Judge, Kekri as indicated herein above and the revision petition stands disposed of.

(K.S. RATHORE),J.

/KKC/